

From: Trout
To: Microsoft ATR
Date: 11/19/01 6:38pm
Subject: Microsoft Settlement Does not go far enough

Department of Justice,
Representatives,

I have worked in the computer industry for quite some time, in tech support, web development, video and film directing/editing, multimedia and sound engineering. I have used all sorts of Operating Systems, from various forms of Windows, to various MacOS-es, to many varieties of unix. I should also say I am not in any way affiliated with any plaintiffs in the Microsoft case, and I do not work for any of their competing companies (and I haven't worked for any competing companies in the past). From the ground though, I have seen many effects from Microsoft's way of doing things.

As the court has ruled, I agree Microsoft is a monopoly. They control a vast majority of the Operating Systems in use by computer users, and a vast majority of the "office productivity" suites through Microsoft Office. As you know, this is not a crime. Simply being a monopoly is not the problem. It's what you do with your monopoly once you have it.

There are many known facts that indicate even before Microsoft could likely be considered a monopoly, it was conducting questionable or even illegal business practices. Some of these issues have been raised in previous court cases, many which Microsoft has lost, and others Microsoft has settled out of court.

When Microsoft achieved dominant marketshare, I believe they continued their questionable practices, but this time with added strength. Microsoft has continually used strong-arm tactics to bully other companies into doing things to fit Microsoft's vision. That sounds rather flighty in a tight sentence. What it means in reality is that Microsoft has used it's position to guarantee further sales, harming other companies in the process, without regard to the consequences.

It has said to computer manufacturers "If you don't put our office suites on your computers, you have to pay full retail prices for Windows (or you can't ship Windows at all). If you don't put Windows on all your computers, or you ship computers with other operating systems, you will have to pay more for Windows (or you can't ship Windows at all). If you put competing or unapproved ISPs or multimedia software on the desktop, you will have to pay more for Windows (or you can't ship Windows at all)." In a highly competitive marketplace like computer manufacturing, can a company afford to tack on an extra \$200 to the cost of production just to include a non-Microsoft software package? Even if that software is easier to use or has more features?

When competing products have come from other companies, threatening to overtake a market Microsoft has it's eye on, Microsoft often buys the company, or releases free similar software. Microsoft can continue to profit from it's monopoly products (Windows and Office) while the other company is losing money. Once the competitor is out the door, they can begin profiting from that sector. Cases where Microsoft has attempted this strategy recently is Internet Explorer vs Netscape; Windows Media Player vs. Real Networks, Quicktime and Macromedia; MSN Instant Messenger vs AOL IM, ICQ, and Yahoo IM; .net vs Java. This list is the current battleground.

The Federal Court has addressed these issues before. In the early 90's it ruled against Microsoft, making it operate under certain restrictions because of it's prior abuses.

If you look at Microsoft throughout it's history, has it changed? Has it made any corrections to it's bad behavior? Or has it simply tried to hide the fact that it operates the same way it always has, continuing to force-bundle it's products, and driving competitors out of business just so it can hold onto a monopoly marketplace?

I think it has. I think the last major judgement in the Microsoft case has been largely ignored. Microsoft is still bundling products against the prior ruling, and it is still acting like a child without any moral direction.

During the current court-case, Microsoft has continually said, "If judgement is ruled against us, it will hinder innovation, and deprive other companies who depend on us from being able to do their jobs."

I think this is revisionist and just plain wrong. This statement is so transparent in protecting Microsoft's own interest, it is ridiculous. Historically, Microsoft's actions have been in exact opposition to statements like this.

As a judge, if a thief kept re-appearing in the court because he kept robbing banks, would you let him off, or give him probation, just because he kept promising to do better? How many times would it take for this thief to be brought before the court before you said, "Ok, look, you just don't get it. You are a menace to society so I am putting you away."

How many times does Microsoft have to be brought into a courtroom before somebody finally says, "Ok, you obviously don't get it, so we're going to keep you from doing any more harm"?

I don't necessarily think Microsoft should be broken up. I don't know what the final solution is. But the settlement on the table has no teeth. It is another slap on the wrist, the kind Microsoft is used to. I imagine this is what Microsoft imagined would happen all along. Even during settlement talks, it is continuing to practice illegal bundling tactics and other questionable licensing schemes with Windows XP. It is saying it will do one

thing to the court, while doing the same old thing behind it's back. And again, even without the monopoly issues, this was all covered in previous cases. Even though illegal, they are also operating against the previous restrictions. What makes you think they will treat the new restrictions any differently?

Microsoft must be shown that it cannot partake in illegal practices, not simply with a slap on the wrist, not just with more restrictions and watch-dogs, not with the court just saying "Ok, you've been bad, so we'll be watching you! Don't do it again!"

The court must enact real punishment that shows Microsoft it's behavior is unacceptable. It must also enact real incarceration that prevents Microsoft from causing more harm.

Thank you for your time.

-Michael Allen
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CC: George Bush,Patty Murray,Maria Cantwell